IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13798 of 2004

Between:

J.Samba Siva Rao, S/o.J.Kalahastri,
Supervisor, The Guntur District Coop.Central Bank Ltd., Branch Mangalagiri, Guntur District.

..... PETITIONER

AND

1 Divisional Coop.officer, Guntur, Guntur District.
2 Joint Registrar / District Cooperative officer, Guntur,

Guntur District.
3 Cooperative Sub Registrar (Establishment)/Section 51

Enquiry Officer, O/o.The Divisional Cooperative officer,
Guntur, Guntur District.
4 Nidamarru Primary Agricultural Cooperative

Society Ltd., rep., by its Mangalagiri Branch Manager/Person-

in-charge,Nidamarru, Mangalagiri Mandal, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of writ of mandamus declaring the instructions dt.8-7-2004 in Rc.No.1330/2002-E of the Divisional Cooperative officer, Guntur, Guntur District i.e., the 1st respondent instructing the 4th respondent herein to file Criminal complaint against the petitioner herein along with another as they are without jurisdiction, unjust arbitrary, contrary to section 83(3) of the A.P.Coop.Societies Act 7 of 1964, offending Articles 14 & 16 of the Constitution of India and hence set-aside.

Counsel for the Petitioner: Mr. T.A.KUMAR

Counsel for the Respondents 1 to 3: GP FOR COOPERATION

The Court at the admission stage made the following ORDER:

The petitioner approached this Court with an apprehension that the 4th respondent is likely to make a complaint to the concerned police in pursuance of the order dated 08-07-2004 passed by the 1st respondent and seeks to declare that the instructions of the 1st respondent through the said order as arbitrary and contrary to Section 83(3) of the A.P. Co-operative Societies Act, 1964 (for short 'the Act').

There is no doubt that prosecution against the petitioner is maintainable only after obtaining sanction from the Registrar of Co-operative Societies. Moreover, to the knowledge of the petitioner, from 08-07-2004 no complaint has been made by the 4th respondent to the concerned police. It is for the 4th respondent to decide whether a complaint has to be filed by following the procedure prescribed under law or not. If a complaint is filed without obtaining the order of sanction from the Registrar of Co-operative Societies as required under Section 83 (3) of the Act, the petitioner has every right to question the legality of the said complaint and he has the liberty to approach the appropriate forum challenging the said prosecution, if any. The petitioner is not entitled to seek a direction at this stage, and to hold that the instruction given by the 1st respondent to the 4th respondent as illegal. There is no mention in the impugned order that the 4th respondent has to prosecute the petitioner without obtaining the sanction from the Registrar of Co-operative Societies. The Writ Petition, therefore, cannot be maintained at this stage.

Accordingly, the Writ Petition is dismissed.

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(Dr. G.YETHIRAJULU,J)

26th October, 2004.

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To

1 The Divisional Coop.officer, Guntur, Guntur District.

2 The Joint Registrar / District Cooperative officer, Guntur,

Guntur District.

3 The Cooperative Sub Registrar (Establishment)/Section 51,

Enquiry Officer, O/o.The Divisional Cooperative officer,
Guntur, Guntur District.

4 The Mangalagiri Branch Manager/Person-in-charge,

Nidamarru Primary Agricultural Cooperative

Society Ltd.,

Nidamarru, Mangalagiri Mandal, Guntur District.

5 Two CCs to the GP for Co-operation, High Court of A.P.,

Hyderabad (O.U.T.)

6 Two CD Copies.